

Glossary of Terms

TYPES OF ACTIONS

Consolidated actions

Actions that involve a common question of law or fact arising out of the same transaction or series of transactions that are pending in the Superior Court and are ordered to be heard together by the granting of a party's motion or on the court's own motion.

Counter-claim

A claim against the opposing party, i.e., a defendant brings a claim against the plaintiff.

Cross-claim

A claim by one party against a co-party, i.e., one defendant brings a claim against another defendant.

Third-party claim

A claim against a person who is not a party to the action, but who may be liable to defendant for all or part of the plaintiff's claims against that defendant, i.e., a defendant brings a claim against a non-party; the defendant becomes a third-party plaintiff and the non-party a third-party defendant.

Without prejudice

A designation added to an order that dismisses either an issue or a party. If the purpose behind entry of the order is to make an interlocutory order appear final, the "without prejudice" language will preclude finality and thus appealability of the order.

Consent orders

Judgments or orders entered with the consent of the parties. Consent orders are ordinarily not appealable for the purpose of challenging their substantive provisions.

TERMS OF FILING

Final

A matter is "Final" in the trial court or agency when there are no open issues to be decided. That is, all counterclaims, cross-claims, third-party claims and applications for counsel fees have been decided, and all consolidated actions have been disposed. However, the trial court or agency may still decide motions for stay or for enforcement of its orders. Matters that are final may be appealed as of right, by the filing of a notice of appeal.

Interlocutory

A matter is "Interlocutory" when there are open issues (other than stay or enforcement) that must be decided by the trial court or agency. An appeal may not be filed as of right from an interlocutory order. However, see certain exceptions listed in [R.2:2-3\(a\) \(3\)](#). If a case is not final and does not fit within any exceptions, a motion for leave to appeal should be filed.

CAPTION OF CASE

Title in full

The full name of the case as listed on the final amended complaint or judgment or order. The title must identify all parties and must not use "et al."

PARTY DESIGNATION

Appellant

A party who files a notice of appeal from a trial court order or agency decision is called an "Appellant". The appellant may have been a plaintiff or defendant in the trial court or agency. The caption of the case does not change when an appeal is filed.

Respondent

A party against whom an appeal is filed is called the "Respondent". That is, the party "responds" to the appeal.

Movant

If a person or entity did not participate in the trial court or agency proceedings, that person or entity may not automatically participate in the Appellate Division proceedings. The person or entity must make a motion in the Appellate Division to appear as amicus curiae, intervenor or other interested party. The person or entity is called a "Movant" while the motion is pending. A "Movant" does not have access to the appeal filings unless the motion is granted.

Litigant

A party engaged in a law suit.

Indigent

1. A person so poor and needy that he/she cannot provide the necessities of life (food, clothing, decent shelter) for himself/herself.
2. One without sufficient income to afford a lawyer for defense in a criminal case.

CASP-DESCRIPTION

Civil appeals are screened for submissions to the Civil Appeal Settlement Program (CASP) to determine their potential for settlement or in the alternative, a simplification of the issues and any other matters that may aid in the disposition or the handling of the appeal. Please consider these when responding to the following question. A negative response will not necessarily rule out the scheduling of a pre-argument conference.

ORAL ARGUMENT R.2:11-1(b)

1. In the Appellate Division, appeals shall be submitted for consideration without argument, unless argument is requested by one of the parties within 14 days after service of the respondent's brief or is ordered by the court. Such request shall be made by a separate captioned paper filed with the Clerk in duplicate. The clerk shall notify counsel of the assigned argument date. If one of the parties has filed a timely request for oral argument, the other parties may rely upon that request and need not file their own separate requests for argument. A party may withdraw its request for oral argument only if it has the consent to do so from all other parties participating in the appeal.
2. Counsel shall not be permitted to argue for a party who has neither filed a brief nor joined in another party's brief. The appellant shall be entitled to open and conclude argument. An appeal and cross appeal shall be argued together, the party first appealing being entitled to open and conclude, unless the court otherwise orders. Each party will be allowed a maximum of 30 minutes for argument in the Appellate Division, unless the Court determines more time is necessary, but the court may terminate the argument at any time it deems the issues adequately argued. No

more than two attorneys will be heard for each party. An attorney will not be permitted to read at length from the briefs, appendices, transcripts or decision.

SEALED DOCUMENTS

The documents that are only viewable by all parties related to the case. A trial court order is required for a document to be sealed in the appellate division or a motion must be made. See [R.1:38-11](#). In Camera Documents are only viewed by the filer and the assigned Judge(s).